

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

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UNITED STATES OF AMERICA	:	CASE NO. 1:06CR565
	:	
Plaintiff	:	
	:	
-VS-	:	
	:	<u>ORDER ACCEPTING PLEA AGREEMENT</u>
KENNETH SMITH	:	<u>AND JUDGMENT AND NOTICE OF</u>
	:	<u>HEARING</u>
Defendant	:	
-----	:	

UNITED STATES DISTRICT JUDGE LESLEY WELLS

This case is before the Court on a Report and Recommendation filed by United States Magistrate Judge Nancy A. Vecchiarelli regarding the change of plea hearing and plea agreement of Kenneth Smith which was referred to the Magistrate Judge with the consent of the parties.

On 6 December 2006, the government filed a three-count indictment against Kenneth Smith for conspiracy to distribution cocaine base and cocaine in violation of 21 U.S.C. Section 846, and possession of five grams or more of cocaine base with intent to distribution in violation of 21 U.S.C. Sections 841(a)(1)( and (b)(1)(B). On 3 January 2007, a hearing was held in which Kenneth Smith entered a plea of not guilty before Magistrate Judge Patricia A. Hemann, waived his right to a detention hearing and executed a waiver. On 6 March 2007, Magistrate Judge Vecchiarelli received Kenneth

Smith's plea of guilty and issued a Report and Recommendation ("R&R") concerning whether the plea should be accepted and a finding of guilty entered.

Neither party submitted objections to the Magistrate Judge's R&R in the ten days after it was issued.

On de novo review of the record, the Magistrate Judge's R&R is adopted.

Kenneth Smith is found to be competent to enter a plea. He understands his constitutional rights. He is aware of the charges and of the consequences of entering a plea. There is an adequate factual basis for the plea. The Court finds the plea was entered knowingly, intelligently, and voluntarily. The plea agreement is approved.

Therefore, Kenneth Smith is adjudged guilty of the lesser offense set forth in Count One of the Indictment, in violation of 21 U.S.C. Sections 846 and 841(b)(1)(B).

Sentencing will be:

**11 June 2007 at 9:30 a.m.**

**Courtroom 19-A  
19th Floor, United States District Court  
801 West Superior Avenue  
Cleveland, Ohio 44113**

IT IS SO ORDERED.

Dated 30 March 2007

/s/Lesley Wells  
UNITED STATES DISTRICT JUDGE